

Office of the State Public Defender

Administrative Policies

Subject:	Determining Conflicts of Interest	Policy No.:	119
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1.0 POLICY

- 1.1** Conflicts of interest are of paramount concern to the Office of the State Public Defender (OPD). Every office within the system must be scrupulous in avoiding conflicts of interest and in addressing perceived conflicts.
- 1.2** This policy specifically recognizes that waivers of conflicts of interest are, occasionally, in the best interest of the client and should be used where appropriate, but only if in the best interest of the client.

2.0 PROCEDURES

- 2.1** When an attorney in a public defender office is assigned a case and, during the course of representation, a conflict of interest issue arises, the public defender shall complete the conflict of interest form (Attachment A) and submit it to the Regional Deputy Public Defender (RDPD) or Managing Attorney.
- 2.2** When a case is determined to be a conflict of interest, the Regional Deputy Public Defender shall refer the case to the Conflict Defender Division Managing Attorney assigned to that region, or if none, to the Conflict Defender Division Administrator. The referral shall be made using the Conflict Request Form (Attachment A).
- 2.3** The Conflict Defender Division Managing Attorney or the Conflict Defender Division Administrator shall review the case to determine whether or not a conflict exists. If there is a dispute between the RDPD and the Conflict Defender Division Managing Attorney regarding whether a conflict of interest exists, the Conflict Defender Division Administrator shall decide the matter.
- 2.4** If a conflict is determined to exist, the Conflict Defender Division Managing Attorney (if applicable) or the Conflict Defender Division Administrator shall assign the case to a Conflict Defender Division staff attorney, to a contract attorney whose name is maintained on the conflict attorney list, or to a public defender employed outside the region with the approval of the Regional Deputy Public Defender. The case shall be assigned based on the nature of the case and the appointed attorney's qualifications and caseload.
- 2.5** Non-attorney client costs require pre-approval per OPD Policy 125, Pre-Approval of Client Costs.

3.0 CLOSING

Questions about this policy should be directed to:
Office of the State Public Defender
Central Services Division
44 West Park
Butte, MT 59701
(406) 496-6080

ATTACHMENT A
OFFICE OF THE STATE PUBLIC DEFENDER
CONFLICT REQUEST FORM

Date Requested: _____ Case Number: _____

Client Name: _____

Judge: _____

Attorney: _____

Type of Case: _____

Describe the Possible Conflict with Specifics: _____

Requesting Attorney: _____

Conflict: ☐ Yes ☐ No

Reasoning: _____

Is Client Incarcerated? _____

Next Court Dates (if scheduled) _____

Name of Complaining Witness or Alleged Victim: _____

Name of Co-defendant(s) and Major Witnesses: _____

RDPD or Managing Attorney: _____

Conflict Defender Division notes, or documentation attached.
